FAX : 0532-2400149 REGISTERED / AD

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
38,MG Marg Civil Lines,Old Red Building,Allahabad-211001
Regional Branch, Allahabad

Dated: 22/11/2017

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. **A/71508-71510/2017-SM[BR]** dated **17/11/2017**

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 01(5) of the **Finance Act, 1994 relating to Service Tax Act, 1994.**

Asstt. Registrar

	Application	Appeal	Name and Address of Appellant
1	ST/CROSS/70301/2017	ST/70436/2016	**Sdg Software India (p) Ltd** A-10,sector-2 NOIDA UP
2	ST/CROSS/70304/2017	ST/70437/2016	**Commissioner CUSTOMS Central EXCISE and SERVICE TAX-Noida** C-56/42...SECTOR 62, NOIDA, UTTAR PRADESH 201307
3	ST/CROSS/70302/2017	ST/70439/2016	**Commissioner CUSTOMS Central EXCISE and SERVICE TAX-Noida** C-56/42...SECTOR 62, NOIDA, UTTAR PRADESH 201307
			Name and Address of Respondent
4			Sdg Software India (p) Ltd A-10,sector-2,, NOIDA ,UP
5			C.C. & C.E. & S.T.-Noida C-56/42...SECTOR 62, NOIDA, UTTAR PRADESH-201307
6			Sdg Software India (p) Ltd A-10,sector-2,, NOIDA ,UP

Other Appellants and Respondents as per Annexure

Copy To

7 Advocate(s) / Consultant(s):

Kartikeya Narain (Adv.) &
Ajay Goel, C.A
21B/1/17, Ground Floor,
Thashkand Marg, Civil Lines,
Allahabad-211001

8 Bar Association, CESTAT, Allahabad

9 Director Publications, Customs, Excise. I.P. Estate, Delhi

10 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, Opp ICICI Bank of Defence Colony New Delhi-3

11 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17

12 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

13 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

14 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070

15 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38

16 The ICFAI society, 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082

17 M/S Knowledge Processing Pvt. ltd.(taxmanagementindia.com),FF-19,1st Floor,Cross River Mall,CBD Ground,Near Karkardooma Court,Delhi-110032

18 C.D.R.   19 Office Copy   20 Second Folder Copy   21 Guard File

Asstt. Registrar

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
<u>REGIONAL BENCH : ALLAHABAD</u>

<u>S.T.Appeal Nos.70436,70437 & 70439/16</u>
<u>& CO-70301,70304 & 70302/17</u>

Arising out of O/A Nos.NOI/SVTAX/000/APPEALS-I/406/2015-16, NOI/SVTAX/000/APPEALS-I/405/2015-16, NOI/SVTAX/000/APPEALS-I/404/2015-16 all dated 22.12.2015 passed by Commr. (Appeals) of Central Excise & Customs, Meerut I

Commr. of Central Excise, Customs & S.Tax, Noida

...APPELLANT(S)

VERSUS

M/s Sdg Software India (P) Ltd.

RESPONDENT (S)

APPEARANCE

Shri Pawan Kumar Singh, Supdt. (A.R.) for the Revenue
Shri Ajay Goel, C.A. & Shri Kartikeya Narain, Adv. for the Respondent (s)

CORAM:

MRS. ARCHANA WADHWA, HON'BLE JUDICIAL MEMBER

<u>DATE OF HEARING/DATE OF DECISION : 17. 11. 2017</u>

Final <u>ORDER NO. 71508 - 71510/2017</u>

Per Mrs.Archana Wadhwa :

All the three appeals filed by the Revenue are being disposed of by a common order as the issue is identical.

2. The issue relates to refund of Cenvat Credit in terms of Rule 5 of the Cenvat Credit Rules, 2004. The Revenue sought to deny the same on the sole ground that the respondents have not debited the amount from their credit account. However, the Commissioner (Appeals) observed that such credit was debited by the assessee and as such they are entitled to be refund.

3. The ld.Advocate appearing for the respondents has brought to my notice that identical appeals were filed by the Revenue against the same respondent and one of such appeal came to be disposed of by the Tribunal vide its Final Order Nos.71002-71003/2017 dated 11.09.2017. Vide the said order, the Revenue's appeal was rejected.. He submits that inasmuch as the issue involved in the present appeals is also identical, the same be dismissed by following the earlier order.

4. The ld.Advocate has also brought to my notice that the Tribunal's decision in the case of Sandoz Pvt. Ltd. Vs. Commr. of Central Excise, Belapur reported in 2015 (325) ELT 387 (Tri.-Mumbai), wherein the refund was granted even if there was no ~~default~~ debit prior to filing the application of the ~~Revenue.~~ Refund .

5. The ld.Advocate further submits that they have filed Cross Appeals claiming the interest on the delayed refund. However, he fairly agree~~s~~ that such interest claim has not been considered by the authorities below.

6. The ld.A.R. appearing for the Revenue agrees that the earlier order of the Tribunal for the same respondents' case, has rejected their appeal, following the same issue.

7. In view of the above, I, by following the order referred (supra), reject all the appeals filed by the Revenue.

8. As regards the Cross Appeals filed by the Assessee, the lower authorities are directed to re-adjudicate ~~of~~ the assessee's interest claim in accordance with law.

Dictated and pronounced in the open Court

Sd/-
(Archana Wadhawa)
Member(Judicial)

mm

प्रमाणित प्रति/Certified True Copy
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सहायक पंजीकार/Asstt. Registrar
सीमाशुल्क, उत्पादशुल्क एवं सेवा कर
अपील अधिकरण/(C.E.S.T.A.T.)
38, एम.जी.मार्ग, इलाहाबाद-211001
38, M. G. MARG,ALLAHABAD-211001